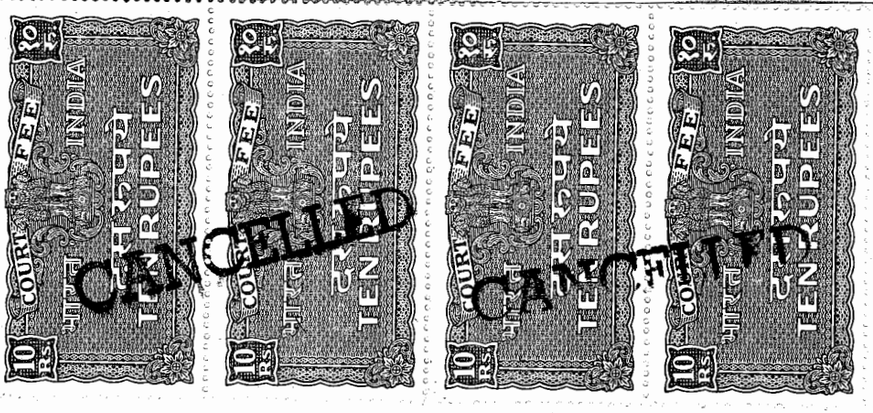

(3)

cf320L

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR.

SECOND APPEAL NO. 164 OF 2003.

APPELLANT
DEFENDANT : Smt. Purnima Tiwari, W/o Shri Brijendra Mohan Tiwari, Aged about 48 years, R/o In front of Government Hospital, Bus Stand Road, Kota, Tahsil Kota, District Bilaspur, (C.G.).

P.R. No. 1653/03
Presented by Shri Mahesh Pandey
dated 15/8/03

V E R S U S

RESPONDENT
PLAINTIFF : Jawahar Lal Tiwari, S/o Shri Bihari Lal, Aged about 55 years, R/o Bajarpara, Kota, Tahsil Kota, District Bilaspur, (C.G.).

MEMO OF APPEAL UNDER SECTION 100 OF THE CODE OF CIVIL PROCEDURE, 1908.

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ...SA.164./.03.... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	12/9/2006 Heard Shri Rajesh Pandey, learned counsel for the appellant and Shri Vinod Deshmukh, learned counsel for the Caveator on I.A. No.2240 of 2006, to pass a compromise decree as per terms and conditions mentioned in para 4 of this application. The brief facts of the case are that the respondent/ plaintiff filed a suit for eviction and arrears of rent against the defendant / appellant and same has been decreed by the Trial Court in the following terms: (i) The defendant shall hand over the vacant possession of suit house by 6/5/2002 (ii) The defendant shall pay the arrears of rent to the plaintiff within a period of two months and the plaintiff shall be entitled to execute the decree. (iii) The defendant to bear the cost of the suit born by himself and also by the plaintiff. The Civil appeal preferred by the appellant / defendant has also been dismissed by the impugned judgment and decree. The joint application for passing of compromise decree as per the terms and conditions mentioned below, preferred by the appellant and the	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक SA.164/03 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	respondent is duly signed by both of them. This application is also supported by their affidavits. Appellant / defendant Smt. Purnima Tiwari and respondent / plaintiff Shri Jawahar Lal Tiwari are present in person. They have verified the contents of the application for passing of compromise decree and stated that the same has been filed with their free consent, without coercion or pressure and without any undue influence. The terms and conditions on which the suit is sought to be compromised are detailed in paragraph 4 of the compromise application which are reproduced as under: (i) that, the appellant shall surrender the vacant possession of the suit house to the respondent immediately after passing the decree by this Hon'ble Court. (ii) that, the respondent shall not claim any damages or any sort of claim relating to the suit house including balance rent, electricity bill, municipal taxes of suit house and any other monetary loss occurred to him relating to suit house; nor his legal representatives can claim the same against the appellant.	

A.O.

मामला क्रमांक ...SA.164/03.. सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

(iii) That, all cases and cross cases or any complaint or dispute regarding the suit house between the parties shall come to an end in light of the above amicable settlement between the parties.

However, the parties to the appeal do not press the third condition mentioned in the compromise application and agree that the same may be omitted from compromise decree.

This Court is satisfied that the parties have adjusted the lis of the suit by lawful compromise and a compromise decree in terms and conditions No. 1 and 2 of the agreement, can be passed

Accordingly the application for passing compromise decree is allowed and in place of the judgment and decree passed by the Court below the suit is decreed asunder:

(i) that, the appellant shall surrender the vacant possession of the suit house to the respondent immediately after passing this decree

(ii) that, the respondent shall not claim any damages or any sort of claim relating to the suit house including balance rent, electricity bill, municipal taxes of suit house and

मामला क्रमांक ..SA..164/.03. सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

any other monetary loss occurred to him relating to suit house; nor his legal representatives can claim the same against the appellant.

The conditions No.1 and 2 mentioned in the compromise application shall be the part and parcel of the decree.

Accordingly, the instant appeal is disposed of.

Sd/-
Dhirendra Mishra
Judge

P.T.O.

3.10.06